

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Joe Fernandez,
Petitioner,

CASE No. 20-CV-5539 (AKH)
Orig. Case No. 10-CR-0863-0
AKH

v.

UNITED STATES OF AMERICA,

Respondent.

Motion granted. Counsel
shall be appointed from the
CJA habeas panel. Counsel
has 60 days to file its
reply.

X Ch. L. [Signature]
9/9/2020

MOTION TO APPOINT COUNSEL
UNDER 18 U.S.C. § 3006 (a)(2)(B)

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Petitioner Joe Fernandez, respectfully moves this Court for an order to appoint counsel. Petitioner's case involves complex legal issues and Petitioner's "next friend" who filed the petitions is being released. Petitioner has no formal or informal training in the law to grapple with an experienced and well resourced attorney for the United States as Petitioner has limited educational background. This Court "ordered the Gov't to show cause" why his petition of habeas corpus should not be granted. Petitioner seeks appointment of counsel to challenge the statements in the government's response.

Appointing counsel would be in the "interest of justice." Due to the pandemic the institution is under "modified operations" and Petitioner does not have access to any other resources ("jailhouse" lawyers) to assist him as there is no access to the physical library or law library to confer with someone who can assist in this regard.

Petitioner understands there is no constitutional right to have counsel appointed in a federal habeas corpus proceeding. Petitioner avers that both the Circuit and this court found merit to Petitioner's claim of relief assuming its truth and therefore did not issue summary dismissal. It would not be an unprecedented occurrence to assign counsel when the "interest of justice" requires the court to do so. Petitioner would not be able to file his "traverse" on his own.

Conclusion

For the foregoing reasons stated above Petitioner respectfully moves for the Court to appoint counsel in which to file a traverse to the Government's response and to handle any other issues related to the ongoing action.

Respectfully Submitted,

CERTIFICATE OF SERVICE

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct, and was placed in the prison mailbox at USP Canaan for filing on August 2020.

Date: 8/31/20

Joe Fernandez
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